

EXHIBIT B

UNITED STATES DISTRICT COURT

for the

Northern District of California

Plaintiff

v.

IN RE: SOCIAL MEDIA ADOLESCENT
ADDICTION/PERSONAL INJ. PRODS. LIAB. LITIG.*Defendant*

Civil Action No. 4:22-md-03047-YGR-PHK

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Arturo Bejar

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Place: Covington & Burling LLP, 1999 Avenue of the Stars,
Los Angeles, California 90067 via electronic production.

Date and Time:

02/25/2025 5:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 02/11/2025

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Ashley Simonsen

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Meta Platforms, Inc., et al. _____, who issues or requests this subpoena, are:

Ashley Simonsen, Covington & Burling LLP, 1999 Avenue of the Stars, Los Angeles, California 90067.

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:22-md-03047-YGR-PHK

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*I received this subpoena for *(name of individual and title, if any)* _____on *(date)* _____.☐ I served the subpoena by delivering a copy to the named person as follows: __________ on *(date)* _____; or☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

*Server's signature*_____
*Printed name and title*_____
Server's address

Additional information regarding attempted service, etc.:

Print

Save As...

Add Attachment

Reset

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: SOCIAL MEDIA ADOLESCENT
ADDICTION/PERSONAL INJURY
PRODUCTS LIABILITY LITIGATION

Case No. 4:22:MD-03047-YGR

MDL No. 3047

THIS DOCUMENT RELATES TO:

All Actions

**ATTACHMENT A TO SUBPOENA TO
PRODUCE DOCUMENTS,
INFORMATION, OR OBJECTS IN A CIVIL
ACTION DIRECTED TO ARTURO BEJAR**

Pursuant to Federal Rule of Civil Procedure 45, Defendants Meta Platforms, Inc. f/k/a Facebook, Inc.; Instagram, LLC; Meta Payments, Inc.; and Meta Platforms Technologies, LLC (collectively, “Meta”) hereby request that Arturo Bejar produce the documents, electronically stored information, and/or objects, set forth below on or before February 25, 2025.

Meta requests production via email and/or electronic share file sent to:

MetaNoticeofService@cov.com, with counsel for plaintiffs copied at social_media_md1@csdisco.com and counsel for co-defendants copied at the following email addresses: SnapNoticeofService@mto.com; TikTokNoticeofService@faegredrinker.com; Service-Youtube-Inresocialmediam@list.wsgr.com. Alternatively, production may be made to Covington & Burling LLP at 1999 Avenue of the Stars, Los Angeles, California 90067.

GENERAL DEFINITIONS AND INSTRUCTIONS

1. The term “Communication” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

2. “Document” or “documents” shall have the broadest meaning ascribed to it by the Federal Rules of Civil Procedure, and includes, without limitation electronically stored information (“ESI”) (including, without limitation, electronic databases and the data therein, all electronic messages or communications, electronic word processing documents, electronically stored voicemail, webpages, and social media posts) in accordance with any order in this case governing ESI at the time of production. Different versions of the same documents, including, but not limited to, drafts or documents with handwritten notations or marks not found in the original or on other copies are different documents.

3. “You”, “you”, “Your” and “your” means Arturo Bejar.

4. “Relating” or “related to” means and includes referring to, concerning, referencing, mentioning, associating with, constituting, discussing, containing, embodying, recording, reflecting, identifying, summarizing, incorporating, and/or dealing with or pertaining to in any way.

5. “And” includes “or”, and vice versa.

6. The singular form of a word or term includes the plural, and vice versa.

7. The present tense of a verb includes the past tense, and vice versa.

8. The use of the article “the” shall not be construed as limiting the scope of any request.

9. “Including” means “including without limitation.”

10. “Any” includes “all”, and vice versa.

11. The capitalized version of a word or term includes the lower-case version of a word or term, and vice versa.

12. “Social Media Platforms” or “Platforms” means a digital service that facilitates interactions between two or more distinct but interdependent sets of users, including but not limited to Facebook, Instagram, Messenger, Snapchat, TikTok, YouTube, Twitter (or “X”),

1 Pinterest, LinkedIn, BeReal, Lapse, Reddit, Threads, VSCO, Goodreads, Quora, Discord, Twitch,
2 and Tumblr.

3 13. All words, terms, and phrases not specifically defined herein are to be given
4 their normal and customary meaning in the context in which they are used in these Requests.

5 14. These Requests are intended to cover any and All documents in Your
6 possession, custody, or control, to the extent not privileged.

7 15. In accordance with the Order Regarding Protected Counsel Communications
8 and Governing Privilege Log Protocol attached hereto as Attachment B, if You object to
9 furnishing any of the documents or information requested by these Requests based on a claim of
10 attorney-client privilege, work product protection, or any other applicable privilege or claim of
11 protection, such information should be redacted and/or logged in accordance with the Order
12 Regarding Protected Counsel Communications and Governing Privilege Log Protocol entered in
13 this action. *See* ECF No. 740.

14 16. If You object to any Request on the grounds that it is vague or ambiguous,
15 state: (i) the portions or terms of such Request that You claim to be vague or ambiguous; and (ii)
16 the interpretation of the Request pursuant to which You provide a response.

17 17. If You cannot fully respond to a particular Request after exercising due
18 diligence to make inquiry and to secure the necessary information, provide a response to the extent
19 possible, specifying Your inability to respond to the remainder and providing whatever
20 information or knowledge You have concerning the portion not responded to.

21 18. Each page of a produced document shall have a legible, unique page
22 identifier (“Bates Number”) and confidentiality legend (where applicable) on the face of the image
23 at a location that does not obliterate, conceal, or interfere with any information from the source
24 document. Redactions should be clearly marked or stamped on the page in such a way that it is
25 clear from review that a portion of the image has been redacted.

26 19. In accordance with the ESI Protocol attached hereto as Attachment C, all
27 responsive electronic documents shall be produced in a format agreed upon by the parties, to
28

1 include at least native versions of Excel spreadsheets and presentation files, with a Bates-stamped
2 placeholder image. *See* ECF No. 690.

3 20. Unless otherwise specified, the time period for these Requests is January 1,
4 2012 to the date of production of the Documents.

5 **DOCUMENT REQUESTS**

6 Identify and produce the following in Your possession, custody, or control:

7 1. All Documents and Communications Relating to Your employment at Meta,
8 including but not limited to documents relating to any work you conducted during your employment.

9 2. All Documents and Communications with current and/or former Meta
10 employees, regarding Social Media Platforms and the mental, social, emotional, or behavioral
11 health, safety, or the sexual exploitation of persons under the age of 18.

12 3. All Documents and Communications concerning Your November 7, 2023
13 written and oral testimony before the United States Senate Committee on the Judiciary,
14 Subcommittee on Privacy, Technology, and the Law Including, but not limited to Communications
15 about preparing such testimony and interviews regarding such testimony.

16 4. All Documents and Communications with or Relating to Your meetings with
17 Congress and Congressional staffers.

18 5. All Documents and Communications between You and any reporter, journalist
19 and/or editor associated with any periodical or other media platform, including but not limited to
20 communications with Jeff Horwitz of the Wall Street Journal, concerning Social Media Platforms
21 and the mental, social, emotional, or behavioral health, safety, or the sexual exploitation of persons
22 under the age of 18.

23 6. All Documents and Communications related to Your participation in the
24 November 2, 2023 article titled, “His Job Was to Make Instagram Safe for Teens. His 14-Year-Old
25 Showed Him What the App Was Really Like” by Jeff Horwitz in the Wall Street Journal.

26 7. All Documents and Communications related to Your participation in creation
27 of the document “We must make social media safe for teens,” available at
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1 [https://docs.google.com/document/d/1ThE0WaaSGUtepXvW6iXmKersjxmsc-](https://docs.google.com/document/d/1ThE0WaaSGUtepXvW6iXmKersjxmsc-hAHfyDvB02YLI/edit?usp=sharing)
2 [hAHfyDvB02YLI/edit?usp=sharing](https://docs.google.com/document/d/1ThE0WaaSGUtepXvW6iXmKersjxmsc-hAHfyDvB02YLI/edit?usp=sharing), as cited on <https://www.arturobejar.org>.

3 8. All Documents and Communications related to Your participation in the
4 January 15, 2025 article titled, “Freedom From Harassment and Exploitation on Social Media, but
5 Not for Girls” by Jessica Grose in the New York Times.

6 9. All Documents and Communications related to the development of
7 <https://www.arturobejar.org/> insofar as the Documents and Communications also relate to the use
8 of Social Media Platforms by, safety of, or the sexual exploitation of persons under the age of 18,
9 Including, but not limited to emails, text messages, messages on chat Platforms (e.g., WhatsApp,
10 Telegram, or Signal), contracts, and agreements.

11 10. All Documents and Communications between You and Frances Haugen,
12 Vaishnavi Jayakumar (aka “Vaishnavi J”), Kang-Xing Jin (aka “KX Jin” or “Robert Jin”), Samir
13 Patel, Margaret Gould Stewart, and Alison Lee concerning Social Media Platforms and the mental,
14 social, emotional, or behavioral health, safety, or the sexual exploitation of persons under the age
15 of 18.

16 11. All Documents and Communications concerning research or analyses related
17 to the use of Social Media Platforms by, safety of, or the sexual exploitation of persons under the
18 age of 18 and the potential benefits and alleged harms created by the use of Social Media Platforms.

19 12. All Documents received from and Communications with parties, lawyers, or
20 any individuals working on their behalf that are engaged in litigation against or investigations of
21 Social Media Platforms, including but not limited to Communications with: Motley Rice, LLP;
22 Seeger Weiss, LLP; Lieff Cabraser Heimann & Bernstein, LLP; Morgan & Morgan; and the offices
23 of various State Attorneys General, Including but not limited to the offices in California,
24 Massachusetts, Vermont, Nebraska, New Mexico, Nevada, and Tennessee, among others.

25 13. Your most current C.V.

26 14. All Documents and Communications Relating to Your possession of
27 Documents from Meta following the conclusion of Your work at Meta.
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1 15. All Documents in Your Possession that were created at Meta that were
2 obtained during or following your employment at Meta that You obtained Yourself or from others.
3 All Documents in Your Possession that You obtained from Meta's systems and repositories or that
4 others working on Your behalf obtained from Meta's systems and repositories.
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Attachment B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: *Social Media Adolescent
Addiction/Personal Injury Products Liability
Litigation*

Case No.: 4:22-md-03047-YGR

MDL No. 3047

This document relates to:
All Actions

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING PROTECTED
COUNSEL COMMUNICATIONS AND
GOVERNING PRIVILEGE LOG
PROTOCOL**

This Stipulation and Order Regarding Protected Counsel Communications and Governing Privilege Log Protocol (“Order”) shall apply to certain protected communications between counsel or govern the procedures for withholding documents from discovery based on a recognized claim of privilege or protection of responsive documents that would otherwise be subject to discovery. This Order applies equally to all parties, who for the purposes of below shall be designated in their various roles as either the “Producing Party” or “Receiving Party” (defined below). All deadlines and timeframes in this order that reference “days” are referring to calendar days and not business days.

I. DEFINITIONS

All capitalized terms are defined as in the Protective Order (ECF No. 665) entered in the Action unless otherwise defined below.

1 A. JCCP 5225: JCCP 5225 shall refer to the actions currently included in JCCP
 2 5225, any other action hereafter added or transferred to JCCP 5225, and all actions later
 3 remanded to their respective transferor courts from JCCP 5225.

4 B. Discovery Material: all items, documents, or other information, regardless of the
 5 medium or manner in which it is generated, stored, or maintained, that is subject to discovery.

6 C. Government Counsel: attorneys, as well as their support staff, supervisors, law
 7 clerks, investigators, and any other employees of a government law office or consumer
 8 protection agency that represents a Party to the Action, JCCP 5225, or a Related Litigation.

9 D. Non-Filing Government Counsel: attorneys, as well as their support staff,
 10 supervisors, law clerks, investigators, and any other employees of a government law office or
 11 consumer protection agency, that were part of the multistate coalition investigating the claims
 12 and allegations related to this Action and Related Litigation, and that have not brought suit in
 13 this Action or a Related Litigation.

14 E. Outside Legal Counsel: attorneys, as well as their support staff to whom it is
 15 reasonably necessary to disclose the information for this Action or JCCP 5225 (including but not
 16 limited to attorneys, paralegals, secretaries, law clerks, and investigators), who are not
 17 employees of a Party to this Action, JCCP 5225, or a Related Litigation but are retained to
 18 represent a Party to this Action, JCCP 5225, or a Related Litigation or to advise a Party with
 19 respect to this Action, JCCP 5225, or a Related Litigation.

20 F. Privileged Material: Discovery Material to the extent it is protected from
 21 discovery based on a claim of attorney-client privilege, work product protection, or any other
 22 applicable privilege or claim of protection.

23 G. Receiving Party: a Party that receives Discovery Material or a description of
 24 Discovery Material which is designated as whole or in part as Privileged Material.

25 H. Related Litigation: litigations listed by caption in Appendix A, or as
 26 supplemented.

27 **II. PROTECTED COUNSEL COMMUNICATIONS**

28 Cooperation by and among Plaintiffs' Outside Legal Counsel, including Government

Counsel, and by and among Defendants' Outside Legal Counsel, is essential for the orderly and expeditious resolution of this Action and JCCP 5225. The communication of information (A) among and between Plaintiffs' Outside Legal Counsel, including Government Counsel, and (B) among and between Defendants' Outside Legal Counsel, shall not be deemed a waiver of the attorney-client privilege or the protections afforded for attorney work product. Nothing contained in this provision shall be construed to limit the rights of any party or counsel to assert the attorney-client privilege or attorney work-product doctrine.

III. PRIVILEGE LOG PROTOCOL

To the extent that Discovery Material is withheld from production on the basis of a good faith claim that it contains Privileged Material, the Producing Party shall produce a privilege log as set forth below within 45 days of the date by which the documents would otherwise have been produced if not for the claim of privilege or protection, unless another time is agreed to by the parties. Privilege logs shall be produced on a rolling basis.

A. Exclusions from Logging Documents Reflecting Privileged Communications or Work Product: To the extent that they contain Privileged Material, the following materials presumptively need not be logged on a privilege log:

1. Communications with Counsel, including Government Counsel, expressly regarding this Action, JCCP 5225, or a Related Litigation after date of initial complaint filing;¹
2. Communications exclusively between and among any Plaintiffs' Outside Legal Counsel expressly regarding this Action or JCCP 5225, including pre-filing investigations regarding the allegations and claims asserted therein;
3. Communications between and among Government Counsel and Non-Filing Government Counsel, including their Outside Legal Counsel, during the period encompassing the pre-suit investigation that culminated in this matter and Related Litigation regarding their investigations of the allegations and

¹ "[E]xpressly regarding this Action, JCCP 5255, or a Related Litigation" means a communication about the litigation activities themselves, not the subject matter of the lawsuits.

claims asserted in this Action. This exclusion from logging also applies to their pre-suit investigations of other Defendants related to allegations and claims asserted in this Action and Related Litigation, regardless of whether any Government Counsel names the Defendant in a complaint.

4. Work product regarding this Action, JCCP 5225, or a Related Litigation, created by an attorney or at the direction of an attorney, who is part of a Party's Counsel, including Government Counsel;
5. Communications expressly regarding this Action, JCCP 5225, or a Related Litigation exclusively between a Party and their Outside Legal Counsel or Government Counsel;
6. Communications expressly regarding this Action, JCCP 5225, or a Related Litigation exclusively between and among either a Party's Outside Legal Counsel or Government Counsel, including their Outside Legal Counsel, and their Experts or professional vendors, and attorney work product created by Experts or professional vendors, except (with respect to Communications between and among a Party's Outside Legal Counsel or Government Counsel, including their Outside Legal Counsel, and their testifying Experts) to the extent the Communications:
 - a. relate to compensation for the Expert's study or testimony;
 - b. identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed;
 - c. identify assumptions that the party's attorney provided and that the expert relied on in forming opinions to be expressed.

Notwithstanding the foregoing, if a Party asserts that communications regarding interactions or communications with any regulator or government agency, if any, are Privileged Material, other than communications included in Section III.A.3, and those subject to the common interest privilege such as those between Plaintiffs' counsel and State Attorneys General, such communications shall be logged, irrespective of the involvement of counsel, including Outside

1 Legal Counsel who were retained for this Action. Nothing herein prohibits a Party from
2 requesting a privilege log for materials presumptively excepted from logging upon a showing of
3 good cause.

4 B. Redacted Documents. Any Discovery Material that contains both Privileged
5 Material and non-privileged material must be disclosed with the purportedly privileged portion
6 redacted. The redacted portion shall be indicated on the Discovery Material itself with the
7 appropriate redaction type reflected in the metadata. The Parties will not be required to log
8 privilege redactions.

9 C. Format. Privilege logs shall be produced in Excel format that allows for text
10 searching, sorting, and organization of data, and shall be produced in a cumulative manner, so
11 that each subsequent privilege log includes all privilege claims from prior logs. No listings,
12 therefore, shall be deleted from the log. If a privilege claim is withdrawn in whole or in part, the
13 listing shall indicate that the claim was withdrawn in whole or in part. The correspondence
14 accompanying each privilege log shall indicate the document production volume(s) and Bates
15 range(s) to which the privilege log applies.

16 D. Identification of Counsel. The Producing Party shall identify on the privilege log
17 the attorney, legal staff or personnel with an “ATTY” or exclamation mark.

18 E. Metadata-Plus-Topic Log. For documents withheld on the basis of privilege or
19 work product, the Producing Party shall provide a metadata log containing the below metadata
20 fields (as defined in the ESI Order, ECF 690), a field or column indicating the privilege log
21 volume, a category/topic field for the Privileged Material (*see* Appendix B), and a column to
22 indicate if an entry was downgraded, modified, or withdrawn (*see* Section IV, *supra*). The
23 Producing Party shall review and analyze each document for privilege and will not rely solely on
24 the metadata to make the determination.

- 25 1. PRIV LOG ID
- 26 2. BEGBATES
- 27 3. ENDBATES
- 28

- 1 4. BEGATTACH
- 2 5. ENDATTACH
- 3 6. ALLCUSTODIANS
- 4 7. PRIV TYPE (e.g., Attorney-Client Privilege, Attorney Work Product,
- 5 Common Interest)
- 6 8. FILENAME
- 7 9. EMAILSUBJECT
- 8 10. AUTHOR
- 9 11. TO/FROM/CC/BCC
- 10 12. DATETIMESENT
- 11 13. DATETIMERECEIVED
- 12 14. DOCDATE
- 13 15. DOCUMENT TYPE
- 14 16. HASHVALUE
- 15 17. ALLFILEPATHS
- 16 18. DATELASTMODIFIED
- 17 19. THREADID

21 F. Narrative Log. Alternatively, a Producing Party may elect to produce a narrative
 22 privilege log for documents withheld from production, which would contain a description field
 23 describing each document and the basis for the privilege assertion, in addition to the metadata
 24 fields listed in Section III.E above. Appendix B shall not apply to narrative logs.

25 G. Listserv or Group Email. To the extent that Listserv or group email addresses are
 26 identified on the privilege log, the Producing Party shall work in good faith to identify individuals
 27 and/or groups of individuals and/or groups of individuals who make up such Listserv or group
 28 email upon request, which may follow the production of the log.

H. Families of Discovery Material. If an attachment (parent or child) to a Discovery Material or communication is being withheld, such attachment(s) shall be identified in the privilege log as separate entries. Families of Discovery Material shall be logged together in sequence with the parent document followed by any other withheld documents in the Discovery Material family to the extent multiple family members are privileged. A Producing Party shall not assert that Discovery Material constitutes Privileged Material on the sole basis that it is part of a family containing other Privileged Material or is attached to a communication with Outside Legal Counsel or its In-House Legal Department.

I. Lesser Inclusive Emails. A Producing Party need not log lesser inclusive emails within the same email chain so long as the most-inclusive email record is logged.

J. To the extent documents require a log format that differs from the requirements outlined above, the parties will meet and confer in good faith, and endeavor to agree upon an appropriate log format for such documents.

IV. PRIVILEGE CHALLENGE PROTOCOLS

Resolution of disputes regarding claims of privilege shall be in accordance with Section H of the Court's Standing Order for Discovery in Civil Cases.

A. Challenges to Privilege Claims: Following the receipt of a privilege log or documents that have been redacted for privilege, a Receiving Party may identify, in writing (by PRIV LOG ID or Bates number), the particular documents that it believes require further explanation. The Producing party shall use reasonable efforts to respond to requests within 10 days for challenges totaling 50 documents and under. If the challenge exceeds 50 documents, the Parties will meet and confer regarding a response time frame. The Parties shall meet and confer to try to reach a mutually agreeable solution.

B. Changes to Redactions or Privilege Designations: To the extent that any privilege assertions are downgraded, modified, or withdrawn by the Producing Party as a result of meet and confer in accordance with the process above, the Producing Party shall within 14 days, or within a time frame as agreed to by the Receiving and Producing Parties, produce any such downgrades as production overlays and indicate the same in the production cover letter to be served with a "key"

1 that indexes the privilege identification number with the assigned Bates Number for each
2 downgraded document. In the event any privilege assertion is downgraded, modified, or
3 withdrawn by the Producing Party with respect to documents to be used in an upcoming
4 deposition, the Parties shall meet and confer and the Producing Party shall use reasonable efforts
5 to produce the documents in advance of the deposition.

6 **V. MODIFICATION**

7 This Order may be modified at any time by the Court on its own motion, for good cause
8 shown on motion of a party, or by agreement of the parties with the Court's approval.
9 Compliance with this Protocol satisfies the Producing Party's obligations under Federal Rule of
10 Civil Procedure 26(b)(5) to expressly claim a privilege or protection and describe the nature of
11 Privileged Material for other parties to assess the claim.

12
13 **IT IS SO STIPULATED**, through Counsel of Record.

14 DATED: April 1, 2024

Respectfully submitted,

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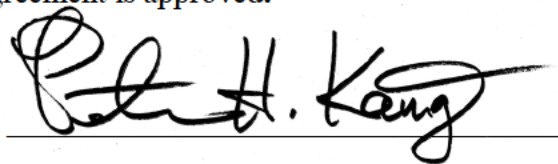
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PURSUANT TO STIPULATION,
IT IS SO ORDERED that the foregoing Agreement is approved.

DATED: April 2, 2024



PETER H. KANG
UNITED STATES MAGISTRATE JUDGE

Appendix A

The Parties agree the below litigations are within the scope of Related Litigation*:

Meta

- *State of Arkansas, ex rel. Tim Griffin, Attorney General v. Meta Platforms, Inc.; Facebook Holdings, LLC; Facebook Operations, LLC; Meta Payments Inc.; Facebook Technologies, LLC; Instagram, LLC; and Siculus, Inc.*, Case No. 57CV-23-47 (Arkansas Circuit Court, Polk County).
- *District of Columbia v. Meta Platforms, Inc. and Instagram, LLC*, Case No. 2023 CAB 006550 (D.C. Superior Court).
- *Commonwealth of Massachusetts v. Meta Platforms, Inc. and Instagram, LLC*, Case No. 2384CV02397 (Massachusetts Superior Court, Suffolk County).
- *State of Mississippi, ex rel. Lynn Fitch, Attorney General v. Meta Platforms, Inc.; Instagram, LLC; Meta Payments, Inc., and Meta Platforms Technologies, LLC*, Case No. 25CH1:23-cv-01205 (Mississippi Chancery Court, First Judicial District).
- *State of New Hampshire v. Meta Platforms, Inc., and Instagram, LLC*, Case No. 217-2023-CV-00594 (New Hampshire Superior Court, Merrimack, SS).
- *State of Oklahoma, ex rel. Gentner Drummond, Attorney General of Oklahoma v. Meta Platforms, Inc., and Instagram, LLC*, Case No. CJ-2023-00180 (Oklahoma District Court, Osage County).
- *State of Tennessee, ex rel. Jonathan Skrmetti, Attorney General and Reporter v. Meta Platforms, Inc., and Instagram, LLC*, Case No. 23-1364-IV (Tennessee Chancery Court, Davidson County).
- *Utah Division of Consumer Protection v. Meta Platforms, Inc., and Instagram, LLC*, Case No. 230908060 (Utah Third District Court, Salt Lake County).
- *State of Vermont v. Meta Platforms, Inc., and Instagram, LLC*, Case No. 23-CV-04453 (Vermont Superior Court, Chittenden County).
- *State of New Mexico, ex rel. Raul Torrez, Attorney General v. Meta Platforms, Inc.; Instagram, LLC; Meta Payments Inc.; Meta Platforms Technologies, Inc; and Mark*

Zuckerberg, Case No. D-0101-CV-202302838 (New Mexico First Judicial District Court, Santa Fe County).

- *State of Nevada v. Meta Platforms, Inc., and Instagram, LLC*, Case No. A-24-886110-B (Nevada District Court, Clark County).
- *State of Nevada v. Meta Platforms, Inc., and Instagram, LLC*, Case No. A-24-886115-B (Nevada District Court, Clark County).
- *State of Nevada v. Meta Platforms, Inc., and Instagram, LLC*, Case No. A-24-886120-B (Nevada District Court, Clark County).
- *M.G. v. Meta Platforms, Inc.; Instagram, LLC; Facebook Payments, Inc.; Siculus, Inc.; Facebook Operations, LLC; and Tory Dwanell Saidstuart*, Case No. 3:23-cv-01861 (D. Or.).
- *Norma Nazario, individually and as Administrator of the Estate of Zackery Nazario v. Bytedance LTD.; Bytedance, INC.; TikTok, Inc.; Meta Platforms, Inc., Metropolitan Transportation Authority, and New York City Transit Authority*, Case No. 0151540/2024 (N.Y. Supreme Ct., New York County).

Snap

- *State AG Nevada v. Snap, Inc.*, A-24-886113-B (Nevada District Court, Clark County)
- *Kennedy Harris, et al v. Snap*, 05251 LACV044283 (Iowa District Court, Dallas County)
- *Linda Blea v. Snap*, D-412-CV-2022-00236 (New Mexico – 4th Judicial District, San Miguel County)
- *V.V. and E.Q., individually and as next friends to minor C.O., v. Meta, et al.*, FBT-CV-23-5050779-S (Conn. Superior Court, Judicial District of Fairfield at Bridgeport); 3:23-cv-00284-SVN (D. Conn.); UWYCV235032685S (Conn. Superior Court, Complex - Waterbury Dist.)
- *Cody Dahl and Tonya Cole Dahl v. Alphabet, Inc., et al.*, 4:23-cv-9472 (W.D. Tex.)

TikTok

- *Nasca, et al. v. ByteDance Ltd., et al.*, No. 2:23-cv-02061 (E.D.N.Y.)
- *Anderson, et al. v. TikTok Inc., et al.*, No. 2:22-cv-01849-PD (E.D. Pa.), *appeal docketed*, No. 22-3061 (3d Cir.)
- *Bogard, et al. v. TikTok Inc., et al.*, No. 3:23-cv-00012 (S.D. Ind.)
- *Nazario, et al. v. ByteDance Ltd., et al.*, No. 151540/2024 (New York Supreme Court, New York County)
- *Nevada v. TikTok Inc., et al.*, No. A-24-886127-B (Nevada District Court, Clark County)
- *Utah v. TikTok Inc., et al.*, No. 230907634 (Utah Third District Court, Salt Lake County)
- *Arkansas v. TikTok Inc., et al.*, No. 12CV-23-65 (Arkansas Circuit Court, Cleburne County)
- *Iowa v. TikTok Inc., et al.*, No. 24-1522 (Iowa District Court, Polk County)
- *Kansas v. TikTok Inc., et al.*, (Kansas District Court, Shawnee County)
- *Indiana v. TikTok Inc., et al.*, No. 23A-PL-03110 (Ind. Ct. App.)

YouTube

- *Cody Dahl et al. v. Alphabet, Inc. et al.*, Case No. 1:23-cv-01496 (W.D. Tex.) (removed December 11, 2023)

* Upon agreement between the Plaintiffs and Defendants, this list may be updated without leave of Court and by serving it on all Parties.

Appendix B

The Parties list below the agreed-upon topics for the topic field for the privilege log option in Section III.E. A Party is only required to choose one topic for each withheld document, but may choose multiple.

1. acquisitions, sales, or divestitures
2. advertising and marketing
3. board of directors meeting agendas, presentations, and/or draft meeting minutes
4. compliance with foreign laws and regulations
5. compliance with U.S. laws and regulations
6. contract drafting or evaluation
7. drafting of, implementation of, or compliance with company policies or procedures
8. foreign government hearings, investigations, or inquiries
9. U.S. government hearings, investigations, or inquiries
10. human resources/employee issues
11. identity and age verification issues
12. intellectual property and patent issues
13. legal hold
14. the current litigation (MDL 3047), JCCP 5225, and Related Litigation
15. litigation other than the MDL 3047, JCCP 5225, and Related Litigation
16. periodic regulatory filings
17. product features
18. review of proposed communications re public and media appearances, press releases, or other published statements
19. user safety
20. [a logging party may add additional categories as appropriate during review, which will be disclosed to the Requesting Party.]

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ATTESTATION

I, Ashley M. Simonsen, hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of this document has been obtained from each signatory hereto.

Dated: April 1, 2024

/s/ Ashley M. Simonsen
Ashley M. Simonsen

Attachment C

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

IN RE: *Social Media Adolescent
Addiction/Personal Injury Products Liability
Litigation*

This document relates to:
ALL ACTIONS

MDL No. 3047
Case No. 4:22-md-03047-YGR

Honorable Yvonne Gonzalez Rogers
Honorable Peter H. Kang

**STIPULATION AND [PROPOSED]
ORDER GOVERNING THE
PRODUCTION OF
ELECTRONICALLY STORED
INFORMATION AND HARD COPY
DOCUMENTS**

1. PURPOSE

This Order Governing the Production of Electronically Stored Information and Hard Copy Documents (“ESI Order”) will govern discovery of electronically stored information and any hard copy documents in this Litigation as a supplement to the Federal Rules of Civil Procedure, this District’s Guidelines for the Discovery of Electronically Stored Information, and any other applicable orders and rules. “This Litigation” includes all actions currently in MDL No. 3047, *In Re: Social Media Adolescent Addiction/Personal Injury Products Liability*, or hereafter added or transferred to MDL No. 3047, and all actions later remanded to their respective transferor courts.

2. DEFINITIONS

- a) “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Rules 26 and 34 of the Federal Rules of Civil Procedure and shall include Hard-Copy Documents and ESI.

b) “Electronically stored information” or “ESI,” as used herein has the same meaning as in Federal Rules of Civil Procedure 26 and 34.

c) “Hard-Copy Document” means Documents existing in paper form at the time of collection.

d) “Searchable Text” means the native text extracted from an Electronic Document and any Optical Character Recognition text (“OCR text”) generated from a Hard-Copy Document or electronic image.

3. COOPERATION

The Parties are aware of the importance the Court places on cooperation and commit to cooperate in good faith throughout this Litigation consistent with this Court’s Guidelines for the Discovery of ESI and this Court’s Rules of Professional Conduct. The Parties will endeavor to cooperate in good faith and be reasonably transparent in all aspects of the discovery process.

4. LIAISON

The Parties will identify Discovery Liaisons to each other who are and will be knowledgeable about and responsible for discussing their respective ESI. Any Party is free to change their designated Discovery Liaison by providing written notice to the other Parties. Each Party’s Discovery Liaison must: (a) be prepared to meet and confer on discovery-related matters and to participate in discovery dispute resolution; (b) be knowledgeable about the Party’s discovery efforts; (c) be, or have reasonable access to those who are, familiar with the Party’s electronic systems and capabilities in order to explain those systems and answer relevant questions; and (d) be, or have reasonable access to those who are knowledgeable about the technical aspects of discovery, including electronic document storage, organization, and format issues, and relevant information retrieval technology, including search methodology.

5. IDENTIFICATION OF CUSTODIANS AND DATA SOURCES

The parties will disclose information about custodians and custodial and non-custodial data sources likely to possess relevant or responsive information in accordance with Fed. R. Civ. P. 26 and this District’s ESI Guidelines. The Parties will participate in Rule 26(f) discussions guided by this District’s Checklist for Rule 26(f) Meet and Confer Regarding Electronically

1 Stored Information. After responses to Requests for Production under Fed. R. Civ. P. 34 have
2 been served, the parties will meet and confer regarding those custodians and custodial and non-
3 custodial data sources from which Documents and ESI will be collected for search and review for
4 potential production in this litigation. The custodian and data source exchanges will include brief
5 explanations of the rationale for their selections; for example, for custodians, their current job
6 titles and descriptions of their work, and for data sources, location information and description.

7 **6. INACCESSIBLE OR UNUSABLE ESI**

8 If a Producing Party asserts that certain requested ESI is inaccessible or not “reasonably
9 accessible,” otherwise unnecessary, or if the Receiving Party asserts that, following production,
10 certain ESI is not reasonably useable, the parties shall meet and confer to discuss resolving such
11 assertions. The parties will exchange sufficient information to enable the parties to confer in good
12 faith. If the parties cannot resolve any such disputes after such a meet and confer has taken place,
13 the issue shall be presented to the Court for resolution.

14 **7. KNOWN RESPONSIVE DOCUMENTS**

15 Documents or ESI identified in a custodial or non-custodial file, or in a discrete folder or
16 collection, that are known to a Producing Party through reasonable investigation to be responsive
17 to a discovery request shall be collected for review without regard to whether the responsive
18 content was located via any search methodology developed in accordance with this Order, and
19 nothing about such review shall prevent the Producing Party from redacting or withholding and
20 logging such documents for applicable privileges.

21 **8. SEARCH METHODOLOGIES**

22 The Parties shall adopt reasonable and proportionate methodologies to identify, search,
23 collect, cull, review, and produce ESI as required under applicable legal standards. The Parties
24 recognize and agree that each Party may use one or more methodologies to identify, search,
25 collect, cull, review, and produce responsive and non-privileged ESI, including the use of
26 keyword search terms and/or the use of technology assisted review (“TAR”) as discussed further
27 herein. The Parties further recognize that different data sets may implicate different
28 methodologies to identify, search, collect, cull, review, and produce responsive and non-

1 privileged ESI. The Parties therefore agree to meet and confer in good faith regarding any
2 potential disputes over their respective ESI productions.

3 **9. HIT REPORTS AND SEARCH TERMS**

4 If a Producing Party uses search terms to identify, search, or cull potentially responsive
5 ESI, the Producing Party shall disclose the search terms to the Requesting Party. The Parties shall
6 meet and confer regarding any disputes over the disclosed search terms. In the event that a
7 Producing Party claims burden with respect to modified and/or additional search terms proposed
8 by a Requesting Party, the Producing Party shall provide a hit report for the terms at issue using
9 industry-standard processing tools, such as NUIX or other similar tools. The Producing Party
10 shall provide a hit report for the document collection where the terms were applied, including the
11 following with respect to each proposed or modified search term in the collection:

- 12 a) The number of documents with hits for that term; and
- 13 b) The number of unique documents, i.e., documents which do not have hits for any other
14 term.

15 If, after reviewing a hit report from a Producing Party, a Requesting Party so chooses, it
16 may reasonably request a further hit report which includes:

- 17 c) The number of family members, including the documents with hits, of the documents
18 with hits for that term; and
- 19 d) The number of unique family members of the documents with hits for that term.

20 If the ESI tool for the Producing Party is capable without undue burden of providing the
21 number of family members and unique family members, then the Producing Party shall provide
22 such further hit report. The Parties (including the person most knowledgeable about the
23 capabilities of the Producing Party's ESI tool and the Requesting Party's person most
24 knowledgeable about technical issues from its ESI service provider) shall meet and confer
25 regarding any disputes over whether the Producing Party's ESI tool has the capability or not to
26 provider either number of family members or number of unique family members.

27 The Parties shall meet and confer to resolve disagreements over the search terms or their
28 application. To the extent the Parties are unable to reach agreement on the application of, or

1 procedures for, any search or filtering processes, the Parties shall fully comply with the
2 provisions of this Court's Discovery Standing Order regarding the procedure for raising discovery
3 disputes with the Court, including the meet and confer and certification requirements therein.

4 **10. TECHNOLOGY ASSISTED REVIEW (TAR)**

5 A Producing Party may use TAR (technology-assisted review) during the culling and
6 review process of ESI, which may be applied in addition to search terms. If a Producing Party
7 uses TAR to cull, filter out, or exclude documents from that Party's production, that Producing
8 Party shall do the following:

- 9 • If a Producing Party chooses to apply both search terms and TAR to a review set,
10 the Producing Party will disclose the search terms to all other Party/Parties.
- 11 • Disclose the name of the TAR tool or service used to all other Party/Parties.

12 **11. VALIDATION**

13 Each Producing Party shall take reasonable steps to validate its review process (i.e., using
14 quality control measures to determine whether its production is missing relevant ESI or contains
15 substantial amounts of irrelevant ESI) and make any necessary adjustments or corrections to its
16 process. If, after reviewing a Producing Party's production, a Requesting Party reasonably
17 requests additional information regarding the validation method(s) used by the Producing Party,
18 the Producing Party will disclose the level of end-to-end recall (the percentage of responsive
19 Documents in the collection which were identified as responsive by that Producing Party's
20 methodology). If there remain disputes between the Parties regarding validation, the Parties shall
21 meet and confer to resolve such disputes in good faith, including a reasonable discussion
22 regarding the tool used and the parameters used to obtain or calculate the level of recall.

23 **12. UNSEARCHABLE DOCUMENTS**

24 The Producing Party shall use reasonable efforts to identify and review potentially
25 responsive documents for which text-based search technologies are fundamentally ineffective.

26 **13. SYSTEM FILES**

27 Each Party will use its best efforts to filter out common system files and application
28 executable files using the national software reference library ("NSRL") NIST hash set list. The

Parties also may filter out stand-alone files identified as zero bytes in size. Additional culling of file types based on file header information may be applied to the following, provided these files are not known to be otherwise attached, embedded in, or included with an otherwise responsive document, or are not themselves reasonably known to contain information responsive or contain responsive data or are used to interface with users or interact with or access individual or aggregated user data: Application Package File, Backup Files, Batch Files, Binary Disc Image, C++ File Formats, Cascading Style Sheet, Configuration File, Database File, Dictionary Files, Dynamic Link Library, Event Log Files, Executable Files, Hypertext Cascading Stylesheet, Java Archive Files, JavaScript Files, JavaScript Source Code and Class Files, Macintosh Resource Fork Files, Package Manager Files, Program Files, Program Installers, Python Script Files, Shell Script Files, System or Temporary Files, Thumbnail Cache Files, Troff Files, Truetype Font Files, Windows Cabinet File, Windows Command Files, Windows File Shortcut, Windows Help Files, Windows Metafiles and Enhanced Metafiles, Windows Spool Files, Windows System File.

14. DEDUPLICATION

Each Producing Party shall make reasonable efforts to globally deduplicate exact duplicate Documents within that Producing Party's ESI data set across all custodial and non-custodial sources at the family level using either MD5 hash values or SHA hash values or any other agreed-upon (and disclosed) industry-standard deduplication technology. The Parties shall reach agreement on such other deduplication technology and shall reach agreement on how their deduplication tools shall identify exact duplicates of documents in a manner that is consistent with the disclosed tools and technologies a Producing Party is using. The Parties shall reach agreement on how to identify exact duplicates of emails using industry-standard commercially available software tools or services, which may for example calculate hash values of emails based on concatenated values of agreed-upon email fields and/or hash values of attachments, or which may use any other method the Parties agree upon. Having further met and conferred in keeping with the previous sentence, the Parties shall calculate deduplication hash values for emails on the concatenated values set forth in and in accordance with the documentation specifications of the disclosed deduplication tools to be used in this Litigation (i.e., RelativityOne, Relativity Server,

1 and Nuix); however, if Nuix is used, the Producing Party shall select the optional field “Include
2 Bcc” as an additional field to add to the default ones.

3 The Parties shall not withhold from production near-duplicates without meeting and
4 conferring on this issue.

5 The names of all custodians who were either identified as custodians for purposes of
6 collection for this matter (or otherwise known by the Producing Party to have been in possession
7 or custody of a document prior to deduplication) will be populated in the ALL CUSTODIANS
8 metadata field for the produced version of a document that has duplicates removed from
9 production. The original file paths (if any exist) of a document prior to deduplication will be
10 populated in the ALL FILE PATHS metadata field of the produced document.

11 **15. EMAIL THREADING**

12 The Parties may use analytics technology to identify email threads and shall produce the
13 unique most inclusive copy and related family members. Where multiple email messages are part
14 of a single chain or “thread,” a Party is only required to produce the most inclusive copy of an
15 email message(s) (“Last In Time Email(s)”) and need not produce earlier, lesser inclusive email
16 messages or “thread members,” provided that the tool or software service being used to perform
17 threading is disclosed. A Producing Party may exclude from production lesser inclusive copies of
18 the most inclusive email message in the thread, where the entire body of each of those lesser
19 inclusive copies is included within the Last in Time Email. The Producing Party will honor
20 reasonable requests to produce lesser inclusive copies of a Last In Time Email or other earlier
21 chains of emails otherwise excluded by email thread suppression.

22 The Parties shall treat new or different email chains or threads pursuant to further
23 agreement on safeguards or guidelines for defining emails threads which reasonably take into
24 account the capabilities of the email threading/dethreading/hyperthreading tools used by each
25 Defendant (which shall be disclosed to Plaintiffs).

26 **16. SOURCE CODE**

27 The Parties will meet and confer to address the production and/or inspection of source
28 code and entering into a separate order governing the same if needed.

17. PRODUCTION FORMATS

The Parties agree to produce documents and data in the formats described in **Appendix 1** to this ESI Order. If particular documents or categories of documents identified in response to document requests warrant a different format, the Parties will cooperate to arrange for the mutually acceptable production of such documents. The Parties further agree not to degrade the searchability of documents as part of the document production process.

In addition, the Parties agree that the production and production format of social media and/or user account information is not covered by this agreement and to meet and confer on the production and production format, including metadata, for social media and/or user account information.

18. PHASING

Once the Parties begin propounding discovery requests pursuant to Fed. R. Civ. P. 34, the Parties agree to meet and confer regarding appropriate phasing for the production of ESI.

19. MISCELLANEOUS PROVISIONS

- a) **Production of Plaintiffs ESI and Case-Specific Materials.** Subject to any further agreement among the Parties or Order of the Court, the Parties shall produce case-specific documents (i.e., documents specific to the claim of a given Plaintiff, produced by Plaintiffs or Defendants) for any Plaintiff in discovery pools or other selections designed to inform bellwether selection, including those selected for a bellwether trial, in accordance with the production format specified herein, provided, however, that the Producing Party may elect to produce such materials in their native format. To the extent production of case-specific documents for any Plaintiff selected for a bellwether trial presents an issue for any Party, the Parties shall reasonably confer, and may present any disputes to the Court or its designee. The Parties shall further agree to confer concerning the production format and associated matters (*e.g.*, hosting platform) for case-specific documents produced in the cases of other Plaintiffs.

Nothing herein shall limit Defendant's right to seek discovery from any Plaintiff.

- b) **Translations Of Produced Materials.** The Producing Party has no obligation to

1 create a translation of the Documents or any portion thereof. For any foreign-language
2 documents responsive to document requests that a Party reasonably knows as the
3 result of a reasonable investigation have been translated into the English language
4 using human translators or through machine translation for its own purposes, except to
5 the extent such translation is protected by attorney-client or work-product privileges,
6 the Producing Party shall produce the translation of the original document with the
7 original. The parties will meet and confer as necessary concerning procedures for
8 using translations at depositions and at trial. In the event the Parties cannot reach
9 agreement, the matter may be submitted to the Court for determination.

10 c) **Third-Party Documents.** A Party that issues a Non-Party subpoena (“Issuing Party”)
11 shall include a copy of this Order with the subpoena and state that (1) the subpoenaed
12 Non-Party should produce Documents in response to the subpoena to all Parties; and
13 (2) the Parties to this Litigation have requested that Third Parties produce Documents
14 in accordance with the specifications set forth herein. If the subpoenaed Non-Party
15 produces Documents to the Issuing Party but does not produce those Documents to
16 other Parties, the Issuing Party shall produce such Documents to those other Parties
17 within 14 days of receiving the Documents, except where the Documents are to be
18 used in a deposition, in which case the Issuing Party shall produce such Documents to
19 all other Parties no later than three (3) days prior to the deposition, or as soon as
20 reasonably practicable if such production occurs thereafter. Nothing in this Order is
21 intended or may be interpreted to narrow, expand, or otherwise affect the rights of the
22 Parties or Third Parties to object to a subpoena. If the Non-Party production is not
23 Bates-stamped, the Parties will meet and confer to agree upon a format for designating
24 the documents with a unique Bates Number prefix.

25 d) **Documents Produced by Parties – Presumption of Authenticity.** In order to reduce
26 the number of requests for admission, this Order establishes a rebuttable presumption
27 that documents produced by the Parties are authentic, if said documents were either
28 created or authored by the producing Party, or any of its employees, agents, or

1 contractors, so long as the employees', agents', or contractors' work was performed in
2 connection with a project or assignment sponsored by the producing Party. No further
3 evidence to establish authenticity need be provided. Nothing in this paragraph shall be
4 deemed to waive any other evidentiary objection a party may have, including but not
5 limited to hearsay, foundation/personal knowledge, or relevance.

- 6 e) **Re-productions.** Notwithstanding any provisions to the contrary, re-production of
7 discrete sets of documents from another litigation, arbitration, government inquiry, or
8 other matter may be re-produced in the same manner and form as originally produced
9 in the other matter, provided however that a party will re-produce documents in a
10 different format for good cause shown. This provision does not waive the right of a
11 party to object to any requests for reproduction of production files from another
12 litigation, arbitration, government inquiry, or other matter.
- 13 f) **Modification.** This ESI Order may be modified by a Stipulated Order of the Parties
14 or by the Court for good cause shown.
- 15 g) **Good Faith.** The Parties will act in good faith as required by law and use these
16 procedures to identify and reduce the potential for disputes.
- 17 h) **Continuing Obligations.** The Parties recognize that discovery shall be an iterative
18 and cooperative process. The Parties will continue to meet and confer regarding any
19 issues as reasonably necessary and appropriate. This Order does not address or resolve
20 any objections to the Parties' respective discovery requests.
- 21 i) **Reservation of Rights.** The Parties agree that any topic not addressed herein is
22 neither a waiver nor acknowledgement of agreement by either Party.

23 **IT IS SO STIPULATED**, through Counsel of Record.
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1 DATED: March 15, 2024

Respectfully submitted,

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IT IS ORDERED that the foregoing Agreement is approved.

Dated: March 18, 2024

MAGISTRATE JUDGE PETER H. KANG

APPENDIX 1: PRODUCTION FORMAT

1) Production Components. Except as otherwise provided below, ESI must be produced in accordance with the following specifications:

- a) an ASCII delimited data file (.DAT) using standard delimiters;
- b) an image load file (.OPT) that can be loaded into commercially acceptable production software (*e.g.* Concordance);
- c) single page black-and-white TIFF images, or JPEG images when color is specified herein, or native files with single page placeholder TIFF images depending on the applicable production format for each type of file;
- d) and document level .TXT files for all documents containing extracted full text or OCR text.
- e) Family relationships between emails and their attachments, embedded files and their source document, and connected hardcopy documents will be maintained in production. Attachments should be consecutively produced with their parent.
- f) If a particular document warrants a different production format, the Parties will cooperate in good faith to arrange for a mutually acceptable production format.

2) Production Media and Access Controls. Productions must be encrypted and produced through secure electronic means, such as secure file sharing methods (*e.g.* FTP), or on CD, DVD, flash drive or external hard drive (“Production Media”). Each piece of Production Media must identify a production number corresponding to the production volume (*e.g.* “VOL001”). Each piece of Production Media must also identify: (a) the case caption; (b) the following label: “This media contains material subject to Court Ordered security measures”; (c) the Producing Party’s name; (d) the production date; (e) the Bates Number range of the materials contained on the Production Media.

Nothing in this ESI Order will preclude or impair any and all protections provided the Parties by any Protective Order(s) agreed and entered into by the Parties. Parties will use best efforts to avoid the unnecessary copying or transmittal of produced documents. If questions arise, the Parties will meet and confer to ensure security concerns are addressed prior to the exchange of

any documents.

3) Data Load Files/Image Load Files. Each TIFF in a production must be referenced in the corresponding image load file. The total number of documents referenced in a production's data load file should match the total number of designated document breaks in the image load file(s) in the production. The total number of pages referenced in a production's image load file should match the total number of TIFF files in the production. All images must be assigned a unique Bates number that is sequential within a given document and across the production sets. The Bates Numbers in the image load file must match the corresponding documents' beginning Bates numbers in the data load file. The total number of documents in a production should match the total number of records in the data load file. Load files must not vary in format or structure within a production, or from one production to another except by agreement of the Parties.

4) Metadata Fields. Each of the metadata and coding fields set forth below that can be extracted should be produced for each document, except that if the field contains privileged information, that privileged information may be redacted. However, to the extent that metadata does not exist, is not available for any documents produced, this provision shall not be read to require any Party to extract, capture, collect, manually populate, or produce such metadata, with the exception of the following: (a) BEGBATES, (b) ENDBATES, (c) BEGATTACH, (d) ENDATTACH, (e) PRODVOL, (f) ALL CUSTODIANS, (g) CONFIDENTIALITY, (h) REDACTIONS, (i) REDACTION TYPE, (j) HASHVALUE, (k) NATIVEFILEPATH, and (l) TEXTFILEPATH, which should be populated by the Party or the Party's vendor. The Parties will make reasonable efforts to ensure that metadata fields automatically extracted from the documents correspond directly to the information that exists in the original documents.

Field Name	Field Description
BEGBATES	Beginning Bates number for a particular document as stamped on the first production image for that document
ENDBATES	Ending Bates number as stamped on the last

Field Name	Field Description
	production image for a particular document
BEGATTACH	First production Bates number of the first document in a family
ENDATTACH	Last production Bates number of the last document in a family
ATTACHCOUNT	Number of attachments to an e-mail or embedded parent, as generated by commercially available discovery processing tools.
ATTACHNAMES	Names of each individual Attachment, separated by semicolons.
PRODVOL	Production volume
ALLCUSTODIANS	List of all custodians associated with Document, i.e. "Custodian" + "Other Custodian" values delimited by semicolon.
ALLFILEPATHS	All original path(s) to the individual source file(s) when available in the ordinary course of business to and processable by the parties and their ESI vendors of choice. Includes path up to and including internal path of containers.
CONFIDENTIALITY	Confidentiality designation assigned to the document consistent with the Stipulated Protective Order governing this Litigation
NATIVEFILEPATH	Native File Link (Native Files only)
TEXTFILEPATH	Path to extracted text/OCR file for the document
HASHVALUE	MD5 hash value of the document
DOCUMENT TYPE	Descriptor for the type of document: "E-document" for electronic documents not attached to e-mails; "E-mail" for all e-mails; "E-attachment" for files that were attachments to e-mails; and "Physical" for hard copy physical documents that have been scanned and converted to an electronic image.
AUTHOR	Any value populated in the Author field of the

Field Name	Field Description
	document properties
DOCDATE	Date the document was created according to filesystem information (format: MM/DD/YYYY)
DATELASTMODIFIED	Date when document was last modified according to filesystem information (format: MM/DD/YYYY)
LAST MODIFIED BY	Last person who modified (saved) a document, as generated by commercially available discovery processing tools.
TRACK CHANGES	Y if a document with track changes value, otherwise N or empty, if available separately from the HASHIDDENATA flag
COMMENTS	Y if a document with comments, otherwise N or empty, if available separately from the HASHIDDENATA flag
HASHIDDENATA	Y if a document with hidden content value, otherwise N or empty
FILENAME	Filename of an electronic document
TITLE	Any value populated in the Title field of the document properties
DOCEXT	File extension of document pulled from the document properties
FROM	The sender of the email
TO	All recipients that were included on the "To" line of the email
CC	All recipients that were included on the "CC" line of the email
BCC	All recipients that were included on the "BCC" line of the email
DATETIMERECEIVED	Date and time email was received (format: MM/DD/YYYY HH:MM)
DATETIMESENT	Date and time email was sent (format: MM/DD/YYYY HH:MM)

Field Name	Field Description
TIMEZONE	The timezone used to process the document
EMAILSUBJECT	Subject line of email pulled from the document properties
THREADID	If a threading tool is used for emails, the thread id generated by the threading tool.
REDACTION TYPE ¹	General category of redaction reason as agreed to by the parties. For example, PII, SCA, CODE, and/or PRIV. If more than one, separate reasons by semicolons.
REDACTIONS	Y if a document is redacted, otherwise N or empty

5) TIFFs. Unless excepted below, single page, black and white, Group IV TIFFs should be provided, at least 300 dots per inch (dpi) for all documents. Each TIFF image must be named according to a unique corresponding Bates number associated with the document. Each image must be branded according to the Bates number and the agreed upon confidentiality designation. Original document orientation should be maintained (i.e., portrait to portrait and landscape to landscape). Where the TIFF image is unreadable or has materially degraded the quality of the original, the Producing Party shall provide a higher quality TIFF image or the native or original file. In addition, the Parties shall take reasonable efforts to process word processing documents (e.g., MS Word) with track changes and/or comments unhidden on the TIFF image.

6) Color. Word processing documents containing tracked changes shall be produced in color, as single-page, 300 dpi JPG images with JPG compression and a high quality setting as to not degrade the original image. The Producing Party shall comply with good faith by the Requesting Party to provide replacement color images for documents originally produced in black and white. A Party making such a request shall make the request by individual Bates

¹ The Parties will provide specific information on any privilege(s) asserted in their privilege logs, in an overlay, or the redaction boxes. The "Redaction Reason" field is informational only for redaction type and shall not in any way limit a party's right to assert attorney-client privilege, attorney-work product privilege, and/or any other applicable privilege or protection.

1 number(s) and shall limit requests made pursuant to this paragraph to a reasonable number of
2 documents.

3 **7) Text Files.** A single multi-page text file must be provided for each document,
4 and the filename should match its respective TIFF filename for the first page of that document.
5 Extracted text shall be generated with commercially acceptable technology set to include all
6 comments, revisions, tracked changes, speaker's notes and text from documents with comments
7 or tracked changes, and hidden and very hidden worksheets, slides, columns and rows. When
8 possible, the text of native files should be extracted directly from the native file. Parties will
9 perform optical character recognition ("OCR") on foreign language documents using the
10 appropriate settings for languages reasonably anticipated to be in the production following a
11 meet and confer with the Requesting Party to identify those languages. Text files will not
12 contain the redacted portions of the documents. A commercially acceptable technology for OCR
13 should be used for all scanned, hard copy documents and for documents with redactions other
14 than Excel files and other spreadsheets which shall be redacted in native format. Text extracted
15 from emails should include the following header information where available: (1) the
16 individuals to whom the communication was directed ("To"), (2) the author of the email
17 communication ("From"), (3) who was copied and blind copied on such email ("CC" and
18 "BCC"), (4) the subject line of the email ("RE" or "Subject"), and (5) the date and time of the
19 email. To the extent the text extraction technology the Parties are using can be configured to
20 include the text of any URLs or links, the Parties shall utilize that setting.

21 **8) Native files.** Spreadsheets (e.g. MS Excel), and un-redacted presentations (e.g.
22 Microsoft PowerPoint,) will be produced in native format to the extent that they are produced in
23 this Litigation, audio, video, and multi-media files will be produced in native format. The
24 Parties will meet and confer on the production of other file types, such as proprietary files, etc.
25 Native files will be produced with a link in the NATIVEFILEPATH field, along with extracted
26 text (where extracted text is available) and applicable metadata fields set forth in paragraph 4
27 above. A Bates numbered TIFF placeholder indicating that the document was provided in native
28 format must accompany every native file. Where redaction makes production of native-format

1 files other than spreadsheets or presentations infeasible, the Parties will confer to determine a
2 reasonably usable form for the production, but spreadsheets shall presumptively be redacted in
3 native, and presentations presumptively redacted in image form, in these cases without the need
4 for further conferring.

5 **9) Production Format for Hard Copy Documents.** Documents that exist in
6 hardcopy will be scanned to *.tiff image format and produced in accordance with the
7 specifications set forth herein. Hard copy documents that are not text-searchable shall be made
8 searchable by OCR prior to production. In scanning paper documents, distinct documents
9 should not be merged into a single record, and single documents should not be split into
10 multiple records (i.e., paper documents should be logically unitized). In the case of an organized
11 compilation of separate documents (for example, a binder containing several separate
12 documents behind numbered tabs), the document behind each tab should be scanned separately,
13 but the relationship among the documents in the compilation should be reflected in the proper
14 coding of the beginning and ending document and attachment fields. The Parties will make their
15 best efforts to unitize the documents correctly. If relevant documents are maintained in a file,
16 folder, envelope, binder, notebook or similar container used to store documents, all contents
17 therein shall be reviewed for production and privilege. Document pages which have affixed
18 notes, such as Post-it notes, should be imaged with and without the note attached.

19 **10) Confidentiality Designation.** All images will be stamped with the appropriate
20 confidentiality designations in accordance with the Stipulated Protective Order entered in this
21 Litigation. Each document produced in native format will have its confidentiality designation
22 identified in the filename of the native file and indicated on its corresponding TIFF placeholder.

23 **11) Bates Numbering.** Bates numbering should be a consistent length across the
24 production, contain no special characters, and be numerically sequential within a given
25 document. If a Bates number or set of Bates numbers is skipped, the skipped number or set of
26 numbers should be noted with a placeholder. Attachments to documents will be assigned Bates
27 numbers that directly follow the Bates numbers on the documents to which they were attached.
28

1 In addition, wherever possible, each image will have its assigned Bates number electronically
2 “burned” onto the image.

3 **12) Databases and Other Structured Data.** To the extent that responsive
4 information is stored in a database, or database management system, or proprietary system or
5 application which has is directed to data storage as one of its primary functions, the Producing
6 Party will identify the database and platform to the Requesting Party. The Producing Party shall
7 produce exports and reports about such responsive information stored in such database, where
8 such exports and reports shall be in a reasonably usable form, and information may be produced
9 in CSV format, tab-delimited text format, Microsoft Excel format, or Microsoft Access format.
10 If there are future disputes over the production of information from a database, the Parties shall
11 meet and confer in good faith in an attempt to reach any further agreements (if needed) on the
12 data to be produced and the format and scope of the production. The Producing Party will
13 provide reasonable amounts of information about the databases to facilitate that discussion.

14 **13) Hyperlinks.** Document(s) and/or folder(s) of documents that are hyperlinked
15 inside a responsive document (including hyperlinked inside emails) within a Producing Party’s
16 custody, possession, or control, do not need to be produced in the first instance as part of the
17 same family group as the Document residing at the location to which that hyperlink points. If
18 there are particular hyperlinks identified by the Requesting Party in produced documents, the
19 Requesting Party may submit a list of hyperlinks to a particular Producing Party for potentially
20 relevant documents by identifying the Bates number and URL or link text for each requested
21 link to the Producing Party, and the Producing Party will engage in reasonable efforts to locate
22 the hyperlinked document at that location and either identify it by Bates number or provide any
23 responsive, non-produced, and non-privileged documents. The number of hyperlinks a
24 Requesting Party may identify to a Producing Party shall not be excessive and shall be
25 reasonable, proportional to the needs of the case, and not unduly burdensome.

26 **14) Embedded Objects.** The Parties agree non-substantive embedded objects,
27 including, but not limited to, logos, icons, emoticons, and footers, may be culled from a
28 document set (but not a document) and need not be produced as separate documents by a

Producing Party (i.e., such embedded objects will be produced within the document itself, rather than as separate documents). Embedded files, except for images (including but not limited to, logos, icons, emoticons), are to be produced as family groups. Embedded files should be assigned Bates numbers that directly follow the Bates numbers on the documents within which they are embedded.

15) Production of Family Groups and Relationships. If any member of a family group is produced, all members of that group must also be produced or else logged as privileged, and no such member shall be withheld from production as a duplicate.

16) Dynamic Fields. Documents with dynamic fields for file names, dates, and times will be imaged to show the field code (e.g., “[FILENAME]”) where possible, rather than the values for such fields existing at the time the file is processed.

17) Time Zone. The time zone used to process a document, including its metadata, shall be disclosed in the TIMEZONE metadata field consistent with Appendix 1, and shall be standardized for each Defendant across productions.

18) Redactions.

a) A Producing Party may redact (i) information subject to the attorney client privilege or the work product protection (PRIV); (ii) information that cannot be disclosed pursuant to the Stored Communications Act (SCA); (iii) source code subject to separate agreement applicable to production of source code (CODE); (iv) personal identifying information (PII) including phone numbers, personal addresses, personal email addresses, the month and day of birth, driver’s license numbers, and other PII agreed to by the Parties (for example, the Parties shall complete their meet and confer on whether or not to redact users’ ages and years of birth). In any event, there shall be no redaction of illnesses, injuries, and medical diagnoses. To the extent a document or pleading contains PII, the Parties shall designate such documents at the appropriate Confidentiality level under the Protective Order and shall comply with Fed. R. Civ. P. 5.2 with regard to filings with the Court.

b) No redactions for relevance may be made within a produced document or ESI item. If, during the course of discovery, the Parties identify other kinds of information that any

1 Party has a reasonable basis for redacting, the Parties will meet and confer on a case-by-case
2 basis regarding that information before such redactions are made. If the Parties cannot agree,
3 they may seek resolution from the Court.

4 c) The Producing Party will indicate, on the face of the redaction, the asserted
5 reason(s) for the redaction (PII, SCA, CODE, and/or PRIV) and the REDACTION TYPE
6 metadata field shall indicate that the document contains redactions and the reason(s) for the
7 redaction.

8 d) Notwithstanding the foregoing, this provision shall not be read to prohibit
9 redactions permitted under any applicable U.S. law or Protective Order.

10 e) Where a responsive document contains both redacted and non-redacted content,
11 the Parties shall produce the non-redacted portions of the document and the OCR text
12 corresponding to the non-redacted portions.

13 f) Native Redactions. Spreadsheet files requiring redaction, including without
14 limitation Microsoft Excel files, shall be redacted and produced natively (unless the Parties
15 agree to production in some other format). In addition, a Producing Party may natively redact
16 other files that cannot be properly imaged for redaction.

17 g) All images of redacted files shall be processed to show all comments, revision
18 marks, speaker notes, marks made in track changes, or other user-entered data which are visible
19 in a normal view of the document in its native application, unless such material is redacted and
20 marked as redacted in accordance with this section. Where possible, any occurrences of
21 date/time auto-field items, including in headers and footers, will be removed and replaced with
22 the term AUTODATE to prevent the current date from being printed. Email header information
23 (e.g., date and/or subject line) shall not be redacted unless it is independently privileged. The
24 Parties shall honor reasonable requests for the production of particular redacted documents in
25 other formats where the image is not reasonably usable.

26 h) Color. Redacted versions of documents that would have been produced in color
27 in their un-redacted form shall be produced in color as detailed herein.
28

1 **19) Exception Files.** The Parties will use reasonable efforts to address processing
2 exceptions.

3 **20) Mobile and Handheld Device Documents and Data.** If responsive and unique
4 data that can reasonably be extracted and produced in the formats described herein is identified
5 on a mobile or handheld device, that data shall be produced in accordance with the generic
6 provisions of this protocol. To the extent that responsive data identified on a mobile or handheld
7 device is not susceptible to normal production protocols, the Parties will meet and confer to
8 address the identification, production, and production format of any responsive documents and
9 data contained on any mobile or handheld device.
10